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CQ461

September 20, 2002

*Via Overnight Mail and Fax*

NEPA Task Force  
P.O. Box 221150  
Salt Lake City, UT 84122  
FAX: (801) 517-1021

Re: Comments on NEPA Task Force's Improvement and  
Modernization of NEPA Analysis and Documentation

Dear NEPA Task Force:

Willamette Pass Ski Corp. ("WPSC") submits these comments in response to CEQ's Notice and Request for Comments published in the Federal Register on July 9, 2002 on the NEPA Task Force's efforts to improve NEPA analysis and documentation. WPSC operates a private recreational facility, including a developed winter sports site that provides nordic and alpine skiing opportunities to the general public, in the Willamette National Forest in Lane and Deschutes Counties in the state of Oregon. WPSC operates under a special use permit (the "Permit") issued by the U.S. Forest Service. The Permit is scheduled to extend through the year 2041. WPSC has been working with the Forest Service under the Permit for over 20 years and has substantial experience with the NEPA process. WPSC submits the following comments on the shortcomings of the current NEPA procedures and guidelines and to address how the process can be improved.

As an overall observation, WPSC notes that the geographic area covered by its Permit is specifically set aside as a winter recreational facility, primarily providing alpine and skiing opportunities to the general public. In recent years, the Forest Service has recognized the need to move beyond the traditional permit relationship to one based on the concept of partnership with respect to the management of areas specifically set aside for use as a winter recreational site. Specifically, this relationship is set forth in the Memorandum of Understanding ("MOU") dated December 4, 1996. The purpose of the MOU is expressly stated as being to establish "a general framework of cooperation between the USDA Forest Service, US Skiing and the National Ski Area Association ("NSAA") in partnership to achieve the common goals of managing and promoting active participation in alpine recreation and sports by all people in a manner that emphasizes public/private partnerships in developing recreational facilities; multi-use public land

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management; sustainable communities; viable local economies; and ecosystem health." WPSC believes that various improvements to the NEPA process would be significant steps toward achieving the goals and objectives outlined in the MOU.

In WPSC's view, the main problem with the current implementation of the NEPA process is that the costs of compliance render almost any proposed action impossible or impractical, from a financial and administrative standpoint, to undertake or complete. The substantial costs involved, the time delays resulting from the required environmental tests and surveys and the various notice and appeal procedures make it difficult to plan or budget for a proposed action. As a result, an area operator that wishes to make improvements to its site, even of the most basic nature, is left feeling angry, hopeless and frustrated by the process (and the masses upon masses of "red tape" that goes along with the process). Proposals and projects to improve the quality of the resort area get delayed and stagnated (or they simply are never proposed) and, consequently, the recreational experience of the patrons is unnecessarily shorted. These consequences detract from the Forest Service's prime objective, in declaring its intent to "partner" with the recreational site developer (and ski areas in general), to promote and develop active participation in alpine recreation and sports. To the contrary, the current NEPA process makes it virtually impossible to take any action to improve facilities and, in many cases, just to maintain the status quo.

As an example, approximately three years ago, WPSC approached the Forest Service with a proposal to construct a gondola car carrier lift to carry patrons over a public highway to get to the WPSC lodge and resort area. The WPSC parking lot is located on the south side of the highway and the WPSC lodge and recreational site is located on the north side of the highway. The area affected by the project was previously disturbed and undoubtedly not a suitable habitat for any living creature or organism. The primary purpose of the gondola project was to mitigate safety issues that otherwise existed with respect to WPSC patrons trying to cross the highway from the parking lot.

Ultimately, the Forest Service issued a Categorical Exclusion ("CE") for the project. However, it took over three years and numerous environmental tests and surveys for the CE to be issued, with the environmental analysis costing WPSC in excess of \$30,000. The time period, environmental testing and costs necessary to secure the CE for this action, which was a relatively small project and unquestionably beneficial from a safety/operations standpoint, were unreasonably and unnecessarily excessive, particularly where the affected area was previously disturbed and virtually barren of any trees or other vegetation.

In addition to the gondola project, WPSC has proposed other actions to improve its area and provide a better quality recreational experience for its patrons. For instance, WPSC has requested approval from the Forest Service to expand its "snow-play" area that is set aside for

non-skiers to use inner tubes, sleds and similar devices to slide down designated hills. Like the gondola project, the area affected is previously disturbed and is relatively small (approximately a couple of acres will be impacted). Nevertheless, the environmental analysis that is being required to secure approval is significant, both from a qualitative and quantitative standpoint (i.e., requiring a number of surveys and analyses) and from a cost standpoint (i.e., costing tens of thousands of dollars).

WPSC has proposed additional actions to the Forest Service as part of an effort to remain a viable ski area attraction, including the construction of a lagoon from which water can be drawn to produce artificial snow and the creation of new ski runs by clearing timber on an area known as West Peak. Because of the plethora of environmental tests, surveys and documentation required for the Forest Service to approve these proposals under NEPA, it is uncertain when, or if, these projects will ever become reality. In an effort to meet the NEPA requirements for these projects, WPSC has engaged the assistance of an environmental consulting firm. Although it appears that the ultimate completion of these projects is far from complete and very much still in the planning stages, the costs and expenses that WPSC has incurred to date on these projects are significant (over \$100,000). The exceedingly high costs, the procedural overkill and the uncertainty of the outcome highlight the problems with NEPA and illustrate why the NEPA process is crippling area operators as they endeavor to operate in a reasonable and efficient manner.

WPSC wishes to emphasize that all of the proposed actions discussed above (the gondola installation, the snow-play area expansion, the snow-making lagoon and West Peak) were contemplated by WPSC's master plan. When the master plan was adopted, a complete environmental analysis was done and the various actions were approved. So WPSC is incurring additional costs and expenses to obtain a second approval for actions that were previously approved and considered at the time to be beneficial from a recreational sports standpoint.

There are a number of steps that the Forest Service could take to minimize the problems with the current NEPA implementation process. To begin with, the Forest Service could expand CEs by developing new categories of CEs that are specifically tailored to ski resort activities. Examples include lift replacements, modifications of existing ski trails and ski runs, installations of snow making pipeline and snow making water sources; expansion of snow making ability to new terrain; improvement of existing parking lots; timber removal for ski run development and replacement of and improvements to resort lodges.

WPSC also wishes to reiterate the various concerns outlined by Michael Berry, president of the NSAA, in the July 31, 2002 letter submitted in response to CEQ's request for comments. Specifically, in WPSC's experience, and as elaborated by Mr. Berry, the Forest Service is increasingly requiring resort to the preparation of environmental impact surveys in circumstances

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where they are not legally required, resulting in further delays in the NEPA process and increased expenditures both on the part of the area operator and the agency. Moreover, in WPSC's view, the fear of appeals and challenges by environmental groups, rather than sound decision-making, is the driving force behind many of the Forest Service environmental requirements. This, again, results in additional delays and increased costs. The Forest Service must become more confident in its internal analysis and stop allowing the fear of appeals dictate how much, and which type, of information will be required in the NEPA process.

Further, as Mr. Berry explained in his letter submitted on behalf of NSAA, WPSC is becoming increasingly concerned that Forest Service personnel involved in the NEPA process often use their personal no-growth, anti-recreation agendas to delay, and to attempt to derail, the NEPA process. Inter-disciplinary team ("IDT") members (which typically include Forest Service members and other agency staff) in many cases do not have the leadership training required to focus on the NEPA requirements (rather than personal agendas) and to disregard any personal views that they may have on a particular issue or matter. In essence, the concern is that the IDT members do not have the required recreation/resort expertise or ability to separate personal and professional matters and to supervise and oversee the NEPA process in an objective and reasonable manner. As other agencies increase their role in the NEPA process, the need for better expertise on ski resort development will become more pronounced. This is an issue that, in WPSC's view, requires immediate attention.

Thank you for your consideration of these comments. If you would like additional information regarding any of the issues discussed in this letter, please do not hesitate to contact me.

Very truly yours,

WILLAMETTE PASS SKI CORP.



Charles M. B. Wiper, III, President